IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

Arbitration Petition No. 258 of 2007

M/s Vatan Singh and Company
through partner Mr.Karpal Singh ..Petitioner

vs.

1. Union of India and others ...Respondents

Mr.U.S.Samudrala for petitioner.
Mr.Suresh Kumar for respondents.

CORAM: S.C.DHARMADHIKARI J
1st October,2007

P.C.

1. Although this peition is one styled under section 37 of the Arbitration and Conciliation Act and is in the nature of an appeal, the prayers in the petition are not happily worded.

2. It is urged by Mr.Samudrala appearing for the petitioner that the Arbitral Tribunal was in error in passing the order dated 14th May, 2007 ruling that it has jurisdiction to go into arbitrability of the claim and counter claim but both sides have been directed to abide by the limit of 20% of the contract value and all claims exceeding the same are not the subject matter of the arbitration.

3. Having perused the petition and annexures

thereto including the order of the Arbitral Tribunal, in my view, at this stage, it would not be proper to go into rival contentions with regard to arbitrability of the claims, applicability of relevant clauses and the necessity of the Arbitral Tribunal issuing impugned directions. In my view, considering the clear language of section 16 it is not as if the petitioner is precluded from challenging the subject directions/ruling at later stage. Even if the petitioner participates in the proceedings, nothing prevents the petitioner from challenging the direction/order dated 14th May, 2007 in case final award is adverse to the petitioner or that its operation is restricted to certain claims. Further the petitioner would also be at liberty to raise appropriate grounds with regard to arbitrability of the claim and counter claim so also urge that limit of 20% of the contract value as applied would not be applicable to the facts and circumstances of the present case.

4. Considering the matter in its totality, it would not be proper to interfere at this stage. More so, when the petitioner has sufficient opportunity in law. The petition is dismissed. Needless to state that this Court having not gone into rival contentions on account of peculiar

nature of the dispute, all contentions on merits have also been left untouched and are available for being urged before the Arbitral Tribunal so also at the stage when the final Award is under challenge.

(S.C.DHARMADHIKARI J.)